

REMARKS

Reconsideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

A. Status of the Claims and Explanation of Amendments

Claims 2 and 29-31 have been amended. Claims 1-15 and 17-69 are pending. Claim 16 has been cancelled without prejudice. The Examiner has asserted that the subject matter of claims 1-69 is not patentable because it fails to satisfy the novelty requirement. Specifically, the Examiner has rejected these claims under 35 U.S.C. § 102(e) as being anticipated by the disclosure in U.S. Patent No. 7,213,766 to Ryan et al. ("Ryan").

The Examiner has also objected to claims 29-31 because claim 28 describes signal "decryption" functionality whereas its dependent claims (29-31) are directed to "encryption" functionality. Applicant has amended dependent claims 29-31 to recite the "decryption" functionality of claim 28 to correct the informality identified by the Examiner.

B. Ryan Does Not Qualify as a Prior Art Reference Under 35 U.S.C. § 102(e)

The Patent Office has rejected claims 1-69 under 35 U.S.C. 102(e) as being anticipated by Ryan. Applicant first traverses this rejection on the grounds that the Patent Office failed to qualify the relevant disclosures in Ryan upon which the rejections are based under 35 U.S.C. § 102(e). Specifically, Ryan claims priority to three provisional applications: U.S. Ser. No. 60/520,698 filed November 17, 2003; U.S. Ser. No. 60/562,204 filed April 14, 2004; U.S. Ser. No. 60/602,595 filed August 18, 2004. The present application was filed on March 23, 2004. Therefore, only the disclosure in Ryan that is properly supported by the disclosure in U.S. Ser. No. 60/520,698 (filed November 17, 2003) qualifies as prior art to the present application under 35 U.S.C. § 102(e).

In order to apply Ryan as a prior art reference under 35 U.S.C. § 102(e), the Patent Office must establish that the disclosures in Ryan which forms the basis of the rejections were properly supported by the disclosure in U.S. Ser. No. 60/520,698. (*See* MPEP § 706.02(f)(1)(B)). The Patent Office has made no such finding here. Accordingly, the Patent Office's rejection under 35 U.S.C. § 102(e) is defective and should be withdrawn.

C. The Pending Claims Of The Present Application Are Patentably Distinct Over Ryan

To the extent supported by the provisional application U.S. Ser. No. 60/520,698, Ryan discloses a "personal token apparatus" that "is capable of loading and storing information" and then "using the stored information or value via its contactless interface." In essence, the apparatus in Ryan is merely a storage device.

With regard to independent claims 1, 2 (as amended), 32, 61, 63, 65, and 68, applicant respectfully submits that Ryan does not disclose, teach or suggest effecting or means to effect "the display of processing activity on the terminal." Ryan discloses an apparatus with an LCD display 510 for displaying messages. (*See* Ryan, col. 21, lines 7-19). The LCD display has to have its own battery source. (*Id.*) Ryan discloses that an example of the display is "a small one or two line LCD display panel." (*Id.* at col. 24, lines 33-35). Clearly, Ryan's LCD display is a part of the apparatus. Furthermore, because the apparatus in Ryan is merely a storage device, the apparatus in Ryan cannot in any way effect the "display of processing activity *on the terminal*, as recited in claims 1, 32, 61, 63, 65, and 68.

With regard to independent claims 33, 62, 64, and 66, applicant respectfully submits that Ryan does not include any disclosure, teaching or suggestion of executing "processing instructions from the memory on the terminal to access the terminal," which qualifies as prior art under 35 U.S.C. §102(e). Specifically, the disclosures in Ryan relied on by

the Patent Office in rejecting these claims are not supported by the subject matter disclosed in U.S. Ser. No. 60/520,698. Therefore, it is respectfully submitted that these claims are allowable and the 35 U.S.C. §102(e) rejection be withdrawn.

With regard to independent claim 67, applicant respectfully submits that Ryan does not include any disclosure, teaching or suggestion of “receiving requests from a terminal ... wherein the storage device is responsible for generating the received requests.” Specifically, applicant respectfully submits that the Patent Office has failed to cite any subject matter in Ryan that shows this limitation. Therefore, it is respectfully submitted that this claim is allowable and the 35 U.S.C. §102(e) rejection be withdrawn.

Because dependent claims 3-15, 17-31, 34-60, and 69 depend from and, therefore, include all the limitations of allowable independent claims, applicant respectfully submits that these claims are also allowable and the 35 U.S.C. §102(e) rejections be withdrawn.

CONCLUSION

For at least the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

Appl. No. 10/807,731

Paper dated April 27, 2009

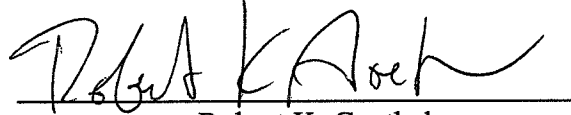
Reply to Office Action dated November 26, 2008

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 50-4827, ORDER NO. 1004294-001US.

Respectfully submitted,
Locke Lord Bissell & Liddell LLP

Dated: April, 27, 2009

By:

A handwritten signature in black ink, appearing to read "Robert K. Goethals", written over a horizontal line.

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